

## Internal Revenue Service

## Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:CORP:1- PLR-119934-02

Date:  
July 29, 2002

RE:

Parent =

Distributing =

Controlled =

Subsidiary A =

Federal Act =

Federal Commission =

State Commission =

Continuing Guarantee =

Date 8 =

Date 14 =

Date 15 =

Dear

This letter responds to your letter dated April 1, 2002, requesting rulings regarding our prior letter ruling dated January 28, 2002 (the "Prior Letter Ruling"). Additional information was submitted in letters dated April 23, June 3, June 14, July 5, July 11, July 17, and July 23, 2002. The information submitted for our review is summarized below. Capitalized terms not defined in this letter retain the meanings assigned to them in the Prior Letter Ruling.

The Prior Letter Ruling addresses a proposed distribution by Distributing to its shareholders of all of its stock of Controlled (the "Distribution") under sections 368(a)(1)(D) and 355 of the Internal Revenue Code, and certain related transactions, including the issuance by Controlled of a portion of its stock to the public (the "Controlled IPO").

The Controlled IPO took place on Date 8. In the Prior Letter Ruling, Parent represented that the Distribution was to occur by Date 14. This representation was based in part upon the length of time it was expected to take the Federal Commission to grant Distributing an exemption (an "Exemption") to certain federal registration and reporting requirements under the Federal Act, or to otherwise permit Distributing to register under the Federal Act. The steps in the transaction set forth in the Prior Letter Ruling were structured and sequenced to comply with requirements of the Federal Commission in enforcing the Federal Act, as well as requirements of the State Commission and obligations which Parent and its subsidiaries have under certain outstanding financial arrangements.

After the date of the Prior Letter Ruling, certain unanticipated financial and economic events occurred which delayed the Federal Commission's review of Distributing's request to be granted an Exemption or to otherwise be permitted to register under the Federal Act. On Date 15, the Federal Commission permitted Distributing to register under the Federal Act.

In addition, at the time of the Prior Letter Ruling, certain guarantee arrangements (the "Guarantees") existed whereby Subsidiary A, a subsidiary of Distributing both before and after the Distribution, served as guarantor with respect to the obligations of Controlled and certain Controlled subsidiaries. It was expected that Subsidiary A would be released from all of the Guarantees on or before the Distribution. However, while Subsidiary A has been released from most of the Guarantees, a Continuing Guarantee remains. It is uncertain whether Subsidiary A will be released from any or all of the Continuing Guarantee before the Distribution.

Prior to the Distribution, Controlled will endeavor to procure the release of Subsidiary A, and substitute Controlled as a replacement guarantor, with respect to the Continuing Guarantee. However, if Controlled is not successful in obtaining all of the necessary consents, Controlled has agreed to provide a letter of credit (the "Letter of Credit") to Subsidiary A in an amount equal to the maximum potential liability Subsidiary A has as guarantor under the Continuing Guarantee. Controlled will continue to provide the Letter of Credit to the extent of and for so long as Subsidiary A is subject to any potential liability in its capacity as guarantor under the Continuing Guarantee.

Since the date of the Prior Letter Ruling, the financial statements submitted by Parent and Controlled in connection with the Prior Letter Ruling have been amended, and such amended financial statements have been submitted for our review.

In connection with its request for a supplemental ruling, the taxpayer has made the following representations:

(a) Except for the representations set forth in paragraphs (m) and (s) in the Prior Letter Ruling (which has been modified as set forth below), all the representations in the Prior Letter Ruling remain true and correct.

(b) Representation (s) of the Prior Letter Ruling is modified to read as follows:

The Distribution will occur no later than the last day of the sixth month beginning after the receipt of this supplemental letter ruling.

(c) Representation (m) of the Prior Letter Ruling is modified to read as follows:

Except for (i) certain obligations arising under regulatory requirements, (ii) certain debts which are expected to be repaid prior to the Distribution, (iii) certain guarantees by Subsidiary A of various obligations of Controlled and its subsidiaries which were entered into before the Distribution and which cannot feasibly be released on or before the Distribution, and (iv) obligations which may arise under service agreements entered into among Parent, Distributing and Controlled, no intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the Distribution. The indebtedness, if any, owed by Controlled to Distributing after the Distribution will not constitute stock or securities.

Based solely on the information submitted and the representations set forth above, we rule as follows:

(1) Provided the Distribution is completed no later than the last day of the sixth month beginning after the taxpayer's receipt of this supplemental letter ruling, the delay in the Distribution will have no effect on the rulings contained in the Prior Letter Ruling and such rulings will remain in full force and effect.

(2) The fact that Subsidiary A continues to serve as guarantor with respect to the Continuing Guarantee after the Distribution will have no effect on the rulings contained in the Prior Letter Ruling.

No opinion is expressed about the tax treatment of the proposed transaction under provisions of the Code and regulations other than those expressed in the Prior Letter Ruling, or about the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transaction that are not specifically covered by the above ruling or those rulings set forth in the Prior Letter Ruling.

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter should be attached to the federal income tax returns of the taxpayers involved for the taxable year in which the transaction covered by this ruling letter is consummated.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by the appropriate party. This office has not verified any of the materials submitted in support of the request for a ruling. Verification of the factual information, representations and other data may be required as part of the audit process.

In accordance with the power of attorney on file in this office, a copy of this letter is being sent to your authorized representatives.

Sincerely yours,  
Associate Chief Counsel (Corporate)

By \_\_\_\_\_  
Michael J. Wilder  
Senior Technician Reviewer, Branch 1

cc: